

**IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF TEXAS
HOUSTON DIVISION**

GERICARE MEDICAL SUPPLY, INC. §
§
PLAINTIFF, §
§
v. § **Civil Action No. 4:20-cv-02425**
§ **Opposed**
J.L. SADICK, et al. §
§
DEFENDANTS. §

EMERGENCY MOTION FOR STATUS CONFERENCE

TO THE HONORABLE GEORGE C. HANKS, JR.:

Plaintiff Gericare Medical Supply, Inc.; Defendants J.L. Sadick and J.L. Sadick, P.C. (collectively “Sadick”) (collectively the “Parties”) respectfully file this Emergency Motion for Status Conference, stating as follows:

1. This lawsuit involves the disappearance of more than \$1 Million Gericare Medical Supply, Inc. (“Gericare”) sent J.L. Sadick and J.L. Sadick, P.C. (collectively “Sadick”) in connection with Gericare’s attempt to buy Personal Protective Equipment (“PPE”). Unlike many cases, given the nature of the transaction, Gericare knew little about the true facts when it filed suit. For example, Gericare did not know the true identities of individuals involved in the transaction, and did not even know what happened to the money it transferred to Sadick for safekeeping. Gericare diligently, and in good faith, engaged in discovery, including written discovery issued to Sadick, issuing numerous Rule 45 subpoenas to third parties as well as additional investigation in an attempt to determine the

facts surrounding the transaction and identities of those involved.

2. On November 25, 2020, Sadick filed a third-party complaint against third-party defendants Terry W. Barnes (“Barnes”), Gregory A. Jones, Jr. (“Jones”), and Imitari Corp. (“Imitari”), demanding contribution and indemnity. (*See* Dkt. No. 21). On February 26, 2021, Barnes and Imitari responded to Sadick’s third-party complaint. (*See* Dkt. 35.) Jones responded to the third-party complaint on March 1, 2021. (*See* Dkt. 36.)

3. On April 16, 2021, after completing its investigation and discovery, Gericare submitted a pre-motion conference letter, seeking leave to amend the Complaint to add additional claims and defendants to the case, including Barnes, Imitari, Jones and two other defendants. (*See* Dkt. No. 40.) A pre-motion conference was held on April 30, 2021, at which time the Court indicated Gericare’s motion would be granted, and the Parties discussed entry of an agreed amended Docket Control Order as a result thereof. (*See* Dkt. 44, 46.) The agreed amended Docket Control Order was entered on May 5, 2021, providing a May 30, 2021, deadline for Gericare to seek leave to amend the complaint. (*See* Dkt. 45.)

4. Gericare filed its motion for leave to amend the Complaint on May 19, 2021, 11 days before the deadline. (*See* Dkt. 50.) Barnes, Jones and Imitari opposed the motion, which was fully briefed on June 16, 2021. (*See* Dkt. 54, 56.)

5. Approaching unexpired deadlines, under the agreed amended Docket Control Order, the Parties, as well as Jones, Barnes and Imitari, filed a Joint Motion to Modify Docket Control Order and Extend Deadlines, which was granted. (*See* Dkt. 58, 59.)

6. The February 28, 2022, discovery deadline as well as other deadlines provided for by the most recent amended Docket Control order are steadily approaching

and, as a result, Plaintiff has scheduled depositions of Defendants J.L. Sadick and J.L. Sadick, P.C. for February 17, 2022, and Third-Party Defendants Barnes, and Imitari for February 22, 2022 and Gregory Jones for February 23, 2022.

7. Gericare has complied with all deadlines in advance of filing this motion.

8. The amended complaint raises new claims and allegations and seeks to add additional parties, which could necessitate duplication of depositions and affects the current deadlines in the amended Docket Control Order.

9. Additionally, statutes of limitations for certain claims set forth in the proposed Amended Complaint are also steadily approaching.

10. Further, given the impact that COVID-19 has had on the judicial system, there is also question whether this case would proceed to trial on the currently scheduled during in June/July, 2022 as set forth in the amended Docket Control Order.

11. The Parties are aware of this Court's instruction that motions for extensions of deadlines and cut-off dates are not emergencies and respectfully contend that this motion is not being filed for that purpose but rather because Plaintiff has initiated discovery to comply with those deadlines, which could potentially be duplicated, and the statute of limitations for certain claims in the proposed amendment are steadily approaching.

12. For the reasons stated above, the Parties jointly respectfully request an emergency status conference with the Court.

WHEREFORE, PREMISES CONSIDERED, the Parties respectfully request an emergency status conference with the Court.

Affirmation Regarding Availability for Conference

Plaintiff's counsel hereby affirms that counsel for all Parties can be available for a status conference with the Court on February 17, 2022, beginning at 10:30 a.m. CDT, which is the time at which J.L. Sadick and J.L. Sadick, P.C.'s depositions are currently scheduled to begin. If this proposed availability is not convenient for the Court, Plaintiff's counsel will diligently and expeditiously endeavor to find a date and time that does.

Respectfully submitted this 16th day of February, 2022.

/s Joshua H. Threadcraft

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Certificate of Conference

Counsel for Plaintiff has conferred with counsel for all Parties to this case regarding their positions relating to the relief requested in this Motion. Defendants J.L. Sadick and J.L. Sadick, P.C. join in the Motion. In response to a February 14, 2022, email attaching a draft of this Motion reflecting that it was a joint motion, Third Party Defendants Barnes, Jones and Imitari advised Plaintiff that they did not concur with the Motion, or the relief requested and requested that the Motion be revised to remove any suggestion that they do.

Certificate of Service

I do hereby certify that on this the 16th day of February, 2022, I caused a copy of the foregoing to be filed with the Clerk of Court using the CM/ECF system, which will provide electronic notice of the filing to the following:

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